

Public Law 98-419
98th Congress

An Act

To amend the Deepwater Port Act of 1974, and for other purposes.

Sept. 25, 1984

[S. 1546]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Deepwater Port Act Amendments of 1984".

Deepwater
Port Act
Amendments
of 1984.
Vessels.
33 USC 1501
note.

AMENDMENT, TRANSFER, OR RENEWAL OF LICENSE

SEC. 2. (a) Section 3(4) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(4)) is amended to read:

"(4) 'application' means an application submitted under this Act for a license for the ownership, construction, and operation of a deepwater port;".

(b) Section 4(b) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(b)) is amended to read:

"(b) The Secretary may—

"(1) on application, issue a license for the ownership, construction, and operation of a deepwater port; and

"(2) on petition of the licensee, amend, transfer, or reinstate a license issued under this Act.".

(c) Section 4(f) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(f)) is amended to read:

"(f) The Secretary may amend, transfer, or reinstate a license issued under this Act if the amendment, transfer, or reinstatement is consistent with the findings made at the time the license was issued.".

(d) Section 4(h) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(h)) is amended to read:

"(h) A license issued under this Act remains in effect unless suspended or revoked by the Secretary or until surrendered by the licensee.".

(e) Section 4(e)(1) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(e)(1)) is amended by inserting at the end thereof: "On petition of a licensee, the Secretary shall review any condition of a license issued under this Act to determine if that condition is uniform, insofar as practicable, with the conditions of other licenses issued under this Act, reasonable, and necessary to meet the objectives of this Act. The Secretary shall amend or rescind any condition that is no longer necessary or otherwise required by any Federal department or agency under this Act.".

(f) The first sentence of section 5(g) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(g)) is amended by striking "issued, transferred, or renewed" and inserting "issued".

(g) The first sentence of section 7(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1506(a)) is amended by striking "issue, transfer, or renew" and inserting "issue".

(h) Section 7(b)(1) of the Deepwater Port Act of 1974 (33 U.S.C. 1506(b)(1)) is amended:

(1) by striking the first sentence and inserting: "The Secretary shall transmit promptly to the Attorney General and the Federal Trade Commission a complete copy of each application for issuance of a license or a petition for the amendment, transfer, or reinstatement of a license that is received."; and

(2) in the second sentence, by inserting immediately after the word "hearing" the phrase "on license application".

ECONOMIC DEREGULATION

SEC. 3. (a) Section 8 of the Deepwater Port Act of 1974 (33 U.S.C. 1507) is amended to read:

"SEC. 8. (a) A deepwater port and a storage facility serviced directly by that deepwater port shall operate as a common carrier under applicable provisions of part I of the Interstate Commerce Act and subtitle IV of title 49, United States Code, except as provided by subsection (b) of this section.

"(b) A licensee under this Act shall accept, transport, or convey without discrimination all oil delivered to the deepwater port with respect to which its license is issued. However, a licensee is not subject to common carrier regulations under subsection (a) of this section when that licensee—

"(1) is subject to effective competition for the transportation of oil from alternative transportation systems; and

"(2) sets its rates, fees, charges, and conditions of service on the basis of competition, giving consideration to other relevant business factors such as the market value of services provided, licensee's cost of operation, and the licensee's investment in the deepwater port and a storage facility, and components thereof, serviced directly by that deepwater port.

"(c) When the Secretary has reason to believe that a licensee is not in compliance with this section, the Secretary shall commence an appropriate proceeding before the Federal Energy Regulatory Commission or request the Attorney General to take appropriate steps to enforce compliance with this section and, when appropriate, to secure the imposition of appropriate sanctions. In addition, the Secretary may suspend or revoke the license of a licensee not complying with its obligations under this section."

SUSPENSION OF FEE COLLECTION AND SUBROGATION

SEC. 4. (a) Section 18 of the Deepwater Port Act of 1974 (33 U.S.C. 1517) is amended as follows:

(1) In the first sentence of subsection (d), following the words "deepwater port" the first time they appear, insert "while located in the safety zone".

(2) In subsection (f)(3), strike the third and fourth sentences and insert: "These collections shall cease after the date of enactment of the Deepwater Port Act Amendments of 1984, unless there are adjudicated claims against the Fund to be satisfied. The Secretary may order the collection of the fee to be resumed when the unobligated balance of the Fund as reduced by the unliquidated debts to the United States Treasury is less than \$4,000,000. Any collection of fees ordered by the Secretary under the preceding sentence shall cease whenever the unobligated balance of the Fund as reduced by the unliquidated debts to the United States Treasury exceeds \$4,000,000. The Fund

49 USC 10101.

Petroleum and
petroleum
products.

Law
enforcement.

Claims.

Effective dates.

Ante, p. 1607.

may borrow from the United States Treasury at an interest rate to be determined by the Secretary of the Treasury amounts sufficient to maintain the available balance in the Fund at \$4,000,000, but only to such extent and in such amounts as are provided in advance in appropriation Acts. Such amounts shall remain available until expended."

(3) In the eighth sentence of subsection (f)(3), as amended by this subsection, after the word "than", insert "the amount the Secretary determines is needed to draw upon under subsection (c)(3) of this section or".

(4) In the tenth sentence of subsection (f)(3), as amended by this subsection, after the word "needed", insert "to draw upon under subsection (c)(3) of this section or".

(5) In subsection (h)(2), insert at the end thereof: "In that event, the owner and operator of the vessel are jointly and severally liable for cleanup costs and damages resulting from that discharge in the same manner and to the same extent as under subsection (d) of this section."

(6) In subsection (h)(3), insert at the end thereof: "When the Fund under this subsection is subrogated to the right of any person entitled to recovery against the owner or operator of a vessel, that owner and operator are jointly and severally liable for cleanup costs and damages resulting from that discharge in the same manner and to the same extent as under subsection (d) of this section."

RELATIONSHIP TO OTHER LAWS

SEC. 5. (a) Section 19(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1518(a)) is amended by adding at the end thereof:

Vessels.

"(3) The Secretary of State shall notify the government of each foreign state having vessels registered under its authority or flying its flag which may call at or otherwise utilize a deepwater port but which do not currently have an agreement in effect as provided in subsection (c)(2)(A)(i) of this section that the United States intends to exercise jurisdiction over vessels calling at or otherwise utilizing a deepwater port and the persons on board such vessels. The Secretary of State shall notify the government of each such state that, absent its objection, its vessels will be subject to the jurisdiction of the United States whenever they—

"(A) are calling at or otherwise utilizing a deepwater port; and

"(B) are within the safety zone of such a deepwater port and are engaged in activities connected, associated, or potentially interfering with the use and operation of the deepwater port. The Secretary of State shall promptly inform licensees of deepwater ports of all objections received from governments of foreign states in response to notifications made under this paragraph."

(b) Section 19(c) of the Deepwater Port Act of 1974 (33 U.S.C. 1518(c)) is amended to read:

"(c)(1) The jurisdiction of the United States shall apply to vessels of the United States and persons on board such vessels. The jurisdiction of the United States shall also apply to vessels, and persons on board such vessels, registered in or flying the flags of foreign states, whenever such vessels are—

"(A) calling at or otherwise utilizing a deepwater port; and

“(B) are within the safety zone of such a deepwater port, and are engaged in activities connected, associated, or potentially interfering with the use and operation of the deepwater port. The jurisdiction of the United States under this paragraph shall not, however, apply to vessels registered in or flying the flag of any foreign state that has objected to the application of such jurisdiction.

Prohibition.

“(2) Except in a situation involving force majeure, a licensee shall not permit a vessel registered in or flying the flag of a foreign state to call at or otherwise utilize a deepwater port licensed under this Act unless—

“(A)(i) the foreign state involved, by specific agreement with the United States, has agreed to recognize the jurisdiction of the United States over the vessels registered in or flying the flag of that state and persons on board such vessels in accordance with the provisions of paragraph (1) of this subsection, while the vessel is located within the safety zone, or

“(ii) the foreign state has not objected to the application of the jurisdiction of the United States to any vessel, or persons on board such vessel, while the vessel is located within the safety zone; and

“(B) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

“(3) For purposes of paragraph (2)(A)(ii) of this subsection, a licensee shall not be obliged to prohibit a call at or use of a deepwater port by a vessel registered in or flying the flag of an objecting state unless the licensee has been informed by the Secretary of State as required by subsection (a)(3) of this section.”.

Effective date.
33 USC 1518
note.

Ante, p. 1609.

(c) The amendment made by subsection (b) of this section shall be effective on the ninetieth day following the date of enactment of this Act. The Secretary of State shall make the first series of notifications referred to in section 19(a)(3) of the Deepwater Port Act of 1974, as added by subsection (a) of this section, prior to the thirtieth day following the date of enactment of this Act.

Approved September 25, 1984.

LEGISLATIVE HISTORY—S. 1546 (H.R. 2353):

SENATE REPORT No. 98-314 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 30, considered and passed Senate.

Aug. 9, considered and passed House.